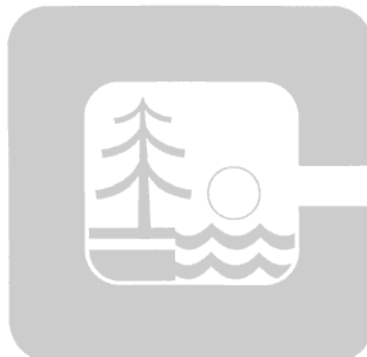


COMMONWEALTH OF MASSACHUSETTS, Mitt Romney, Governor
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS, Ellen Roy Herzfelder, Secretary
DIVISION OF CONSERVATION SERVICES, Robert O'Connor, Director

CONSERVATION LAND ACQUISITION PROJECTS
Massachusetts Self-Help Program
Federal Land and Water Conservation Fund
Application Package
Fiscal Year 2006

GRANT APPLICATION DEADLINE:
Monday, August 1, 2005 by 3PM



Division of Conservation Services
100 Cambridge St, Suite 900
Boston, MA 02114

Contact: Jennifer Jillson Soper
Grant Programs Supervisor
Phone: (617) 626-1015
FAX: (617) 626-1181
Email: jennifer.soper@state.ma.us
Website: www.mass.gov/envir/dcs

Save paper and money – please print this document using a double-sided printer setting.

This package contains the following information you will need to file an application to acquire conservation land. Remember: electronic filings will not be accepted.

- ◆ DCS Letter
- ◆ Time Line for Grant Programs
- ◆ Program Regulations
- ◆ Conservation Land Acquisition Projects Application Step Procedures
- ◆ Conservation Application Form
- ◆ Sample Municipal Vote
- ◆ Appraisal Report Guidelines
- ◆ Conservation Land Acquisition Projects Selection System
- ◆ Land & Water Conservation Fund Program Overview

*******SAVE THE DATE*******

DCS will host a "How-To" workshop to help you prepare a competitive preliminary application on Monday, May 23, 2005 from 10am to 12 noon in Boston at 100 Cambridge Street, Conference Room B, Second Floor.

RSVP at (617) 626-1011.



The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Mitt Romney
GOVERNOR

Kerry Healey
LIEUTENANT GOVERNOR

Ellen Roy Herzfelder
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181

April 2005

Re: FY2006 DCS Annual Grant Round

Dear Prospective Applicant:

Thank you for your interest in the FY06 Annual Grant Round for the Self-Help, Urban Self-Help and federal Land and Water Conservation Fund Programs as announced recently by Environmental Affairs Secretary Ellen Roy Herzfelder. The enclosed application package will give you a complete overview of the program you are interested in, and should be read very carefully. **Your full, complete application is due in our office no later than 3 p.m. on Monday, August 1, 2005.**

Secretary Roy Herzfelder's grant round announcement letter detailed her project funding priorities for each grant program and can be viewed at www.mass.gov/envir/dcs. Applicants should use the Conservation Project Application form for conservation land acquisition projects, and the Recreation Project Application form for parkland acquisition, improvement, or development projects. EOEA reserves the right to determine the allocation of state and federal sources of grant funds as project and budgetary conditions warrant.

The Romney Administration has launched an incentive policy known as Commonwealth Capital to encourage municipalities to implement land use practices that are consistent with Smart Growth. Municipalities must apply directly to the Office for Commonwealth Development for a Commonwealth Capital Score, which is used in the selection process for DCS grant programs. The FY06 Commonwealth Capital rating sheet is being revised and will be available online at <http://www.mass.gov/ocd/comcap.html>. For questions on Commonwealth Capital email commcap@massmail.state.ma.us or call (617) 626-4949.

The maximum reimbursement available from the Self-Help or Urban Self-Help programs is based on your community's equalized valuation per capita decile rank and ranges from 52% to 70% of the total project cost. Federal Land and Water Conservation Fund projects may be reimbursed at up to 50%. The maximum grant award for any project has been set at \$500,000, but may be raised or lowered at the discretion of the Secretary.

Eligible Cost Policy for FY06

Starting this fiscal year, DCS has changed its eligible cost policies for both acquisition and development projects to maintain consistency with state procurement law. Acquisition projects: be sure not to close on the property until your application has been successful and you have an executed contract with DCS. Development and renovation projects: any cost incurred prior to the project dates specified on an executed contract with DCS is not an eligible cost, including design costs. Acquisition projects must be completed and closed out by June 1, 2006. Development projects, and projects funded through the Land and Water Conservation Fund may extend into FY2007.

To be eligible to participate in the grant round, communities must have:

- 1) An Open Space and Recreation Plan approved by, and on file with the Division of Conservation Services;
- 2) No unresolved "parkland" conversion issues with the Executive Office of Environmental Affairs; and
- 3) Apply directly to the Office for Commonwealth Development for a Commonwealth Capital Score.

Please review the enclosed step procedures, preliminary application forms, and instructions on how to prepare the required documents carefully.

It is crucial to the success of your application that you work closely with DCS to determine if your community is eligible to participate, if your project fits the appropriate program requirements, and to ensure that the application is complete. Applications for acquisitions that are not accompanied by appraisals cannot be considered for funding. DCS will offer a "how-to" workshop to help you prepare a competitive preliminary application on Monday, May 23, 2005 from 10am to 12 noon in Boston at 100 Cambridge Street, in Conference Room D on the second floor. I strongly recommend that you attend the workshop if you plan to apply, and ask you to RSVP at (617) 626-1011. Be sure to study the enclosed information, understand the program obligations, check to determine if your community and project are eligible for assistance, and contact DCS with any questions regarding your proposal.

Sincerely,

Robert O'Connor
Director, DCS

TIME LINE FOR DCS GRANT PROGRAMS
SELF-HELP, URBAN SELF-HELP and FEDERAL LAND AND WATER CONSERVATION FUND
FY2006 APPLICATION DEADLINE AUGUST 1, 2005 by 3PM

1. CALL DCS: April 2005

Is your project is eligible? Applications must be submitted **before** land is acquired, or construction has begun. Is your community's Open Space and Recreation Plan up to date? Then – you need preliminary application information and should sign up for the grant workshop.

2. SUBMIT TWO COPIES OF A COMPLETED PRELIMINARY APPLICATION TO DCS BY August 1, 2005.

Work closely with DCS prior to August 1 to confirm that your preliminary application is complete. **Your full, complete application is due in our office no later than 3PM on Monday, August 1, 2005.** Late or incomplete applications and electronic filings cannot be accepted! Your chief executive officer (and conservation commission members for conservation projects) must sign the application. All projects must be reviewed by your local Regional Planning Agency, Natural Heritage and Endangered Species Program, and by the Massachusetts Historical Commission. Send a brief project description including a budget and USGS topographic map to these agencies for review prior to August 1, and submit their comments as soon as they are available.

3. SUBMIT APPLICATION FOR COMMONWEALTH CAPITAL SCORE – Criteria developed by Office for Commonwealth Development and required for all “Commonwealth Capital” grant programs. Open Space and Recreation Plan, Housing Compliance, and Local Funding Initiatives among other criteria are considered (see <http://www.mass.gov/ocd/comcap.html> for an application and more details).

4. SITE INSPECTION: Summer & Fall, 2005

Proposals cannot be funded on a "sight unseen" basis. DCS staff will contact you to schedule the inspection.

5. PROJECT RATINGS: Fall 2005

Proposals are rated by DCS using the open project selection systems. Proposals which are well developed i.e., have an affirmative Town Meeting Vote or City Council Order, a Purchase and Sales Agreement, or firm development cost estimates will receive higher consideration for funding.

6. RECOMMENDATION FROM ENVIRONMENTAL AFFAIRS: Late Fall 2005

All proposals are rated and reviewed by DCS and presented to EOEAs' Interagency Lands Committee for funding recommendations. The ILC's recommendations are reported to the Secretary of Environmental Affairs. The Secretary's final recommendations will be presented to the Office for Commonwealth Development. Successful applicants will be contacted by DCS. Projects selected for state assistance will receive a Project Agreement and State Standard Contract. Those selected for federal Land and Water Conservation Fund assistance will receive additional instructions to prepare an application to the National Park Service.

7. MUNICIPAL VOTE TO SECURE TOTAL PROJECT COST: December 31, 2005

Congratulations are due if you have already voted to fund this project since you will be able to quickly execute your Project Agreement and State Standard Contract. *If not, the applicant city or town must vote to appropriate, expend from available funds, or borrow an amount equal to the **total project cost** of the project no later than December 31, 2005. Applicants will be expected to conform to tight expenditure timetables because DCS must expend state bond funds within the same fiscal year the grant is awarded.* The Project Agreement and State Standard Contract will not be executed unless local funding has been secured.

8. FINAL APPROVAL: Fall 2005

Once the Project Agreement and State Standard Contract have been executed and the total project cost has been secured, the community may proceed with its project. Federal LWCF projects will follow a schedule set by NPS.

9. REIMBURSEMENT PROCEDURE: Reimbursement Request due by June 1, 2006

DCS grant programs are REIMBURSEMENT programs and require evidence of payment from the municipality to the landowner or contractor prior to receiving a payment from the grant. Acquisition projects must comply with M.G.L. Chapter 30B regarding municipal procurement and file with the Central Registry 30 days prior to closing. You must finish your project in accordance with the terms in the grant award letter and send a reimbursement package to DCS by June 1, 2006. Reimbursement forms and instructions are sent to you by DCS along with the project contracts. *Caution: do not purchase the property or start construction prior to executing the Project Agreement! Costs incurred prior to executing these documents cannot be reimbursed!*

10. POST COMPLETION RESPONSIBILITIES – THE LAND IS NOW PROTECTED OPEN SPACE

Receipt of state assistance permanently protects the project site (Article 97 of the Articles of Amendment to the State Constitution). Any boundary encroachment, change of use, or lack of basic maintenance could constitute a conversion. The Secretary of EOEAs must approve any proposed conversion and the community must obtain suitable replacement land and its own expense. There is no "buy out" option. Federal LWCF project conversions must also be approved by the National Park Service, through EOEAs, and land of equal value and utility substituted.

301 CMR 5.00: SELF-HELP AND URBAN SELF-HELP PROGRAMS

Section

- 5.01: Authority
- 5.02: Purpose
- 5.03: Definitions
- 5.04: Eligibility
- 5.05: Project Application and Selection
- 5.06: Project Conditions
- 5.07: Project Costs
- 5.08: Post-Completion Responsibilities
- 5.09: Conversion
- 5.10: Guidance Documents
- 5.11: Severability

5.01: Authority

301 CMR 5.00 is promulgated pursuant to M.G.L. c. 21A, § 2, M.G.L. c. 132A, § 11, as amended, St. 1977, c. 933, as amended, and St. 1996, c. 15.

5.02: Purpose

301 CMR 5.00 is promulgated to implement the Self-Help and Urban Self-Help grant programs by establishing uniform grant application, selection procedures and program requirements. Both the Self Help and Urban Self Help grant programs have two separate programs: an annual program in accordance with the grant cycle of 301 CMR 5.05(4); and a rolling program subject to periodic notice of availability as described in 301 CMR 5.05(5).

5.03: Definitions

Division means the Division of Conservation Services in the Executive Office of Environmental Affairs.

Extreme Critical Need means a state of financial hardship where a municipality has an unemployment rate exceeding 10% or where a major business or facility closing has caused devastating economic dislocation and a substantial decrease in the municipality's tax base.

Major State Public Institution means an institution including, but not limited to state and county prisons, mental health facilities, regional solid waste facilities, and federal and state military reservations. Institutions of public higher learning are excluded.

Open Space and Recreation Plan means a bound document containing the following: a summary; statement of purpose including planning process and public participation; community setting; environmental inventory and analysis; inventory of lands of conservation and recreation interest; community goals; analysis of needs; goals and objectives and five-year action plan; maps and letters of comment from the chief municipal officer; planning board and regional planning agency. Guidelines and a workbook for developing plans are available from the Division.

Particular Environmental Sensitivity means Projects located within a state-designated Area of Critical Environmental Concern ("ACEC"); or containing significant plant or animal habitat, a vernal pool, or endangered, threatened or special concern plant or animal species as certified by the Massachusetts Natural Heritage Program office; or, containing known, important archeological or historic resources and on or eligible for inclusion in the State Register of Historic Places. Particular Recreational Importance means, but is not limited to, a project that is the "flagship" or centerpiece of a community's park and recreation system; an acquisition project that significantly addresses an imbalance between the available recreation acreage per capita and the National Recreation and Park Association Standards for such acreage; a coastal or inland swimming facility; and unique recreational facilities such as zoos.

Project means the acquisition, planning, or design of conservation land reimbursed by the Self-Help Program, or the

acquisition, development or renovation of parkland reimbursed by the Urban Self-Help Program.

Project Selection System means a project rating system based on a 100-point scale. The Self-Help Project Selection System awards 50 points based on demographic factors of the applicant community and 50 points based on project quality. The Urban Self-Help Project Selection System awards 40 points based on demographic characteristics of the applicant community and 60 points based on project quality. Each program's selection system awards six points for implementation of the community's open space plan and up to ten bonus points if the applicant community has or plans to site a major state public institution or has passed a debt limit override vote of open space purchases in the preceding two years.

Projects of Particular Environmental Sensitivity may be eligible for points in the rating system, and possibly an increase in the reimbursement rate. Applicants claiming eligibility for additional reimbursement for projects of Particular Environmental Sensitivity must include written comments from any of the following state agencies, as applicable: Coastal Zone Management, the Department of Conservation and Recreation's ACEC program, the Massachusetts Natural Heritage and Endangered Species Program, or the Massachusetts Historical Commission. The Secretary shall develop and may review and modify, at the Secretary's discretion, selection systems for the Self-Help, Rolling Self-Help, Urban Self-Help, and Rolling Urban Self-Help grant programs. The selection systems shall be set forth in Guidance Documents available from the Division.

Regional Project is a recreation facility that serves a population of at least 35,000 people who reside within a 25-mile radius of the facility, has parking for at least 100 cars and adequate comfort stations. Regional Projects generally provide multiple opportunities for picnicking, walking, canoeing, boating, fishing, children's recreation, and swimming. The Secretary may waive the vehicle accommodation requirement if direct access to a public transportation route with regularly scheduled hourly service is available at the project site. Guidelines for regional projects are available from the Division.

Rolling Self-Help Program is a rolling grant program that conforms with the minimum requirements of the Self-Help Program, plus guidelines established by the Secretary, excluding the grant cycle requirement described in 301 CMR 5.05(4).

Rolling Urban Self-Help Program is a rolling grant program that conforms with the minimum requirements of the Urban Self-Help Program, plus guidelines established by the Secretary, excluding the grant cycle requirement described in 301 CMR 5.05(4).

Secretary means the Secretary of Environmental Affairs or the Secretary's designee.

Self-Help Program is a grant program that provides reimbursements to municipalities of up to 90% of the allowable costs towards the purchase of land for conservation and passive recreation purposes.

Special Advisor for Environmental Justice Issues means a person so named and designated by the Secretary to review Urban Self-Help grant applications and advise the Secretary on the importance of each application in addressing environmental justice concerns.

Small Town Project is a Project which qualifies only for a maximum of \$50,000 where a community does not meet the population criteria of a city or town of over 35,000 and is not undertaking a Regional or Statewide Project.

Statewide Project is a recreation facility located within a one hour driving time from more than one Metropolitan Statistical Area, accommodates at least 200 vehicles, provides adequate comfort stations, and will also provide for more dispersed or uncommon recreation opportunities such as equestrian trail use, overnight camping, nature center programs, golf, group picnicking, large beach use, boating, skiing, and live animal viewing such as zoos. Any Project located on Nantucket Island, Martha's Vineyard, and the towns of Provincetown, Truro, Wellfleet, Eastham, Orleans, and Chatham is considered statewide regardless of the project scope. The Secretary may waive the vehicle accommodation requirement if direct access to a public transportation route with regularly scheduled hourly service is available at the project site. Guidelines for statewide projects are available from the Division.

Urban Self-Help Program is a grant program that provides reimbursements to municipalities of up to 90% of allowable costs towards the acquisition of land, and the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes.

5.04: Eligibility

- (1) Planning Requirement. No application will be considered by the Secretary until the Applicant has filed an approved Open Space and Recreation Plan or submits a draft plan with the preliminary application. If a municipality's plan has not been approved by the Secretary at the time of the project selection process, there will be no rating points awarded for plan implementation under the Project Selection System.
- (2) Self-Help Program.
 - (a) Only municipalities with Conservation Commissions duly established pursuant to M.G.L. c. 40, § 8C are eligible to participate in the Self-Help Program.
 - (b) Self-Help Program grants are available to fund the acquisition of land for conservation purposes, and to plan or design suitable public outdoor facilities for these properties.
- (3) Urban Self-Help Program.
 - (a) Only municipalities with a park, playground, or recreation commission, or any combination thereof, duly established pursuant to M.G.L. c. 45, § 2, and a Conservation Commission duly established pursuant to M.G.L. c. 40, § 8C, are eligible to participate in the Urban Self-Help Program.
 - (b) Urban Self-Help Program grants are available to fund the acquisition of land for park and outdoor recreation purposes, and for the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes.
 - (c) The following municipalities are eligible to apply for Urban Self-Help grants:
 1. Any city or a town of over 35,000 year round inhabitants; or
 2. Municipalities with a population of less than 35,000 year-round inhabitants that:
 - a. propose Statewide or Regional Projects and demonstrate regional or statewide usage to the satisfaction of the Secretary; or
 - b. propose a Small Town Project.
 - (d) The Special Advisor for Environmental Justice Issues shall publicize in urban areas the existence of the Urban Self-Help Program, and publicize, make available and assist municipalities with interpreting the Urban Self-Help Program guidelines.
- (4) Affirmative Action and Accessibility. To be eligible for assistance, municipalities must be in compliance with a Civil Rights Review Comment from the Massachusetts Commission Against Discrimination, and Executive Order No. 215, concerning Disbursement of State Development Assistance for Affordable Housing. Municipalities must also show that all parks and recreation facilities are in compliance with the Americans with Disabilities Act (P.L. 101-336), formerly required under Section 504 of the Rehabilitation Act of 1973, P.L. 93-112 (Federal Handicapped Accessibility Guidelines), as amended; and Department of Interior Regulations 43 CFR 17, Subpart B, or show how and when such facilities will be brought into compliance with the above regulations.
- (5) Extreme Critical Need. When a municipality can demonstrate that it has extreme critical need or that its project is one of particular recreational importance as defined in 301 CMR 5.03, it may receive up to 10% more reimbursement of the total project cost. No more than five municipalities per year will be awarded this additional funding.
- (6) Upon request, the municipality or its authorized representative shall provide all records, books, papers, documents, or other data relating to the Program grant to the Secretary for examination.
- (7) Each program participant shall cause work on the Project to proceed within a reasonable period of time after receipt of notification from the Division that funds have been approved and will pursue the Project to completion with reasonable diligence.

5.05: Project Application and Selection

- (1) Application Step Procedures. Applications shall be submitted to the Secretary in accordance with the Application Guidelines of the Division, which are available upon request.
- (2) Appraisal Reports. Applications for acquisition assistance shall be accompanied by an appraisal report prepared according to the Appraisal Report Guidelines of the Division, which are available upon request.

(3) Project Selection System. In order to distribute limited Self-Help and Urban Self-Help funds among an overwhelming number of applicants, the Secretary has developed a review process called the Project Selection System. The Project Selection System considers a number of demographic, social, environmental, and project quality factors in order to identify those projects which best protect natural resources or recreation amenities where appropriate in communities that have the greatest need for financial assistance and that have made efforts to implement their open space plans in coordination with local planning for future growth. The Project Selection System Guidelines for each grant program are available upon request from the Division.

(4) Self-Help Program and Urban Self-Help Program Grant Cycle.

The annual filing deadline for applications shall be June 1 of each year. The Secretary may alter or extend this deadline provided that public notice of the change is given at least 90 days in advance of the new deadline. Grants shall be made only once in the annual fiscal cycle; however, grants may be adjusted after the award for cause.

(5) Rolling Program Specific Requirements

(a) Rolling Self-Help Program grants must meet all requirements applicable to the Self-Help grant program, excluding the grant cycle requirement as described in 301 CMR 5.05(4).

(b) Rolling Urban Self-Help Program grants must meet the all requirements applicable to the Urban Self-Help grant program, excluding the grant cycle requirement as described in 301CMR 5.05(4).

(c) The Secretary may establish additional guidelines for the Project Selection System of the Rolling Self-Help Program.

(d) The Secretary may establish additional guidelines for the Project Selection System of the Rolling Urban Self-Help Program.

(e) The Secretary shall provide notice of availability of funding and the associated filing deadline for any grant funding offered under either the Rolling Urban Self-Help or the Rolling Self-Help Programs. Such notice shall be effective when published either in the Massachusetts Register or the Environmental Monitor.

(f) The Secretary may announce rolling grant rounds and accept applications from time to time and subject to available funding.

5.06: Project Conditions

(1) Off-street parking and land use and management plans may be required at the discretion of the Secretary depending upon the size of the project area, its intended use(s), the nature of the resource(s), and the availability of public transportation and on-site parking.

(2) Additional project conditions may be required by the Secretary to enhance public benefit or protection of natural resources.

(3) Program participants shall provide for fair and equitable treatment of persons and businesses to be displaced as a result of the project, and shall comply with M.G.L. c. 79A, as amended, Titles II and III of the federal Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) where concurrent federal financial assistance is sought or intended for subsequent project phases.

(4) Property acquired or improved with Self-Help Program assistance shall be under the care, custody, and control of the Conservation Commission. Property acquired or improved with Urban Self-Help Program assistance shall be under the care, custody, and control of either the Conservation Commission or the Recreation Commission.

(5) A failure to comply with the conditions of any grant contract may result in the reduction, suspension, or withdrawal of awarded grant funds.

5.07: Project Costs

(1) Each grant program provides reimbursement of up to 90% of allowable costs towards the acquisition of land, and the construction, restoration or rehabilitation of land for park and outdoor recreation proposes. The maximum reimbursement percentage allowed for an approved project based on the municipality's equalized valuation per capita decile rank among all Massachusetts municipalities as determined by the Secretary of Administration and Finance. A municipality's rank, and therefore its percentage of reimbursement potential, may change annually based on its increase or decrease in property valuation and population growth. The Secretary may reduce the maximum reimbursement percentage to allow for a more

equitable distribution of limited funds among all municipalities. The annual reimbursement schedules are available from the Division.

(2) Subject to the approval of the Secretary, all reasonable costs associated with acquisition projects shall be eligible for reimbursement. Costs for appraisals, title searches, recording fees, surveys, costs associated with 301 CMR 5.06(3), as well as the actual approved purchase price are deemed to be eligible acquisition project costs. In addition, for Urban Self-Help Projects, the actual approved purchase price, engineering, design, construction, and construction supervision are deemed eligible project costs, however, the Secretary shall retain the right to set a fixed limit on the reimbursement of Project costs. Additional information on reimbursement procedures is available from the Division upon request.

(3) As required by M.G.L. c. 132A, § 11, reimbursement under the Self-Help Program will occur only after the participant has expended an amount equal to the total cost of the project and not until the project has been completed to the satisfaction of the Secretary. Billing procedures and forms are available from the Division.

(4) Federal funding sources such as Community Development Block Grants or Revenue Sharing that are defined by the federal government to be local money may be used to match program funds. Program reimbursements for Urban Self-Help projects may be paid periodically upon request for payments made by a municipality. Billing procedures and forms are available from the Division.

(5) The Division encourages charitable contributions for conservation purposes either in cash or real property. While real property contributions are not reimbursable, cash contributions may be utilized as the municipality's share of the project providing said cash contribution is deposited into a separate municipal account such as authorized under M.G.L. c. 40, § 5, Cl. 51 and is expended therefrom as part of the municipal appropriation for the acquisition or development. Cash contributions returned to the municipality after acquisition are also encouraged. If such contribution is prearranged or likely to occur, the appraisal process should be closely scrutinized, to avoid even the appearance of impropriety. Participants and potential donors should carefully familiarize themselves with M.G.L. c. 268A, the Conflict of Interest law. Donors must not exert undue influence in selling their property and it must be sold at a fair price in order to avoid a conflict of interest.

5.08: Post-completion Requirement

(1) Operation, Maintenance, and Reasonable Use Limitations. Property acquired or developed with Program assistance shall be operated and maintained in accordance with standards and guidelines of the Division. In accordance with the applicable program contract, participants may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with Program assistance as necessary for maintenance or preservation.

(2) Nondiscrimination. Property acquired or developed with Program assistance will be open to entry and use by all persons who are otherwise eligible regardless of race, color, national origin, sex, sexual preference, age or disability.

(3) Nondiscrimination on the Basis of Residence.

(a) Discrimination on the basis of residence, including preferential reservation, membership or annual permit systems, or user fees is prohibited on the Project site unless this provision is waived by the Secretary.

(b) The Secretary will approve or deny all proposed fee or access limiting systems. Waivers will not be granted which are inconsistent with the Federal Land and Water Conservation Fund Act, P.L. 88-578, Section 6(f)(8), 16 U.S.C. § 4601-4. *et seq.*

5.09: Conversion and Reversion

(1) Conversion. Property acquired or developed with assistance from the Self-Help or Urban Self-Help Program shall be retained and used at all times for open space purposes in accordance with M.G.L. c. 132A, § 11, and St. 1977, c. 933. Any property so acquired or developed shall not be wholly or partly converted to other than public outdoor recreation or conservation purposes without the approval of the Secretary. Converted property shall comply with Article 97 of the Massachusetts Constitution and shall be replaced with land of at least equal fair market value and of reasonably equivalent usefulness. The Secretary may disapprove conversion requests or reject proposed property substitutions. Grant contracts, at the discretion of the Secretary, may be subject to specific performance.

(2) Reversion. Property acquired or improved with Program funds authorized by St. 1996, c. 15 shall be retained and used at

all times for open space purposes in accordance with M.G.L. c.132A, § 11, as amended, or St. 1977, c. 933, as amended. In the event that the property ceases to be used, either in whole or in part, for such purposes, all interest in the property shall revert to the Commonwealth, unless the Secretary demands specific performance of the grant contract.

(a) Owners of property so acquired or improved shall notify the Secretary in writing of any change in use or potential change in use of the property that is inconsistent with said open space purposes. The owner shall have 90 days from the date written notice was received by the Secretary to present satisfactory evidence acceptable to the Secretary that the basis for reversion has been cured, in which case the property shall not revert. Upon receipt of written notice, the Secretary may review the circumstances of the property and determine that reversion of the property is not appropriate or essential to the protection of public open space, and find that the provisions of 301 CMR 5.09(1) shall apply.

(b) If the Secretary finds that a property acquired or improved with Program funds has ceased to be used for such open space purposes, the Secretary shall notify the owner of the property in writing of this basis. The owner shall have 90 days from the date written notice was mailed to the owner to present satisfactory evidence acceptable to the Secretary that the basis for reversion has been cured, in which case the property shall not revert.

5.10: Guidance Documents

The Guidelines or Guidance Documents referenced herein are available free of charge to municipalities upon request from the Division.

5.11: Severability

The provisions of 301 CMR 5.00 are severable, and if any provision or application thereof is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the enforceability of the remainder of 301 CMR 5.00.

REGULATORY AUTHORITY

301 CMR 5.00: M.G.L. c. 21A, § 2; c. 132A, § 11; St. 1977, c. 933; St. 1987, c. 564, §§ 8 and 9; St. 1996, c. 15, § 2.

Formatting Note: 301 CMR 5.00 occupies pages 15 through 22 of 301 CMR EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS. (PAGES 23 THROUGH 42 ARE RESERVED FOR FUTURE USE.)

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES

**CONSERVATION LAND ACQUISITION PROJECTS
Massachusetts Self-Help Program
APPLICATION STEP PROCEDURES**

- (1) Conservation commission or community preservation committee (the "Participant") requests Self-Help application from the Division of Conservation Services *before purchasing land*. At this time, deadlines for filing applications should be ascertained.
- (2) Participant files complete application with the Division of Conservation Services (DCS) before purchasing land. *No electronically filed applications will be accepted*. Several landholdings in a single, contiguous tract may be packaged into one application. Unrelated, separate landholdings must be submitted as individual applications. The following items must be included with the application:
 - (a) Certified copy of municipal vote accepting M.G.L. c. 40, s. 8C.
 - (b) Certified copy of date Participant was established and current appointments to Conservation Commission.
 - (c) Plot or survey plan of area adequately defining metes and bounds of project.
 - (d) Professional appraisals. (See USPAP and the Uniform Appraisal Standards for Federal Land Acquisitions.)
 - (e) Open space and recreation plan approved by the Division and no more than five years old if not already on file with the Division or draft plan. (Plan must be completed before DCS can release a final grant payment.)
 - (f) Any pertinent attachments required in application.
 - (g) File a separate application with the Office for Commonwealth Development for a Commonwealth Capital Score. The application, information and additional guidance documents are available online at <http://www.mass.gov/ocd/comcap.html>.

**NO INCOMPLETE APPLICATIONS WILL BE ACCEPTED.
DO NOT CLOSE ON THE PROPERTY WITHOUT AN EXECUTED CONTRACT FROM EOE.**

- (3) Participant submits draft warrant article or Council order to the Division for review before Town Meeting or City Council vote. Municipal counsel should be consulted in drafting the warrant article, order of taking, or city council order. The draft municipal vote must cite the particular parcel to be acquired and contain authorization to seek funding under M.G.L. c. 132A, s. 11 and to enter into any contracts for the project, as well as permit the conveyance of a conservation restriction if a CR is applicable to the project.
- (4) Participant will be contacted by DCS to schedule a site inspection.
- (5) Merit point rating assigned by Division of Conservation Services followed by review by the Executive Office of Environmental Affairs Interagency Lands Committee, and the Office for Commonwealth Development. Interagency review is designed to identify statewide or regional interagency interests in projects and to review the point rating for the purpose of making final funding recommendations, with or without conditions, to the Secretary.
- (6) Application is reviewed and approved with or without special conditions, or rejected by the Secretary.
- (7) Project approval letter, Self-Help Project Agreement and State Standard Contract, and billing forms for approved projects are sent to Participants by DCS. State funds are then obligated for approved projects. Participants with unsuccessful applications will receive a brief explanation of why the project was rejected and given recommendations regarding future applications.
- (8) Municipal Funding
 - (a) Town or City votes to appropriate, transfer from available funds, expend from its Conservation Fund, or borrow an amount equal to the total cost of the project stated in the Self-Help application. A city or town may vote to borrow funds in anticipation of state or federal reimbursement prior to receiving agreement of reimbursement (M.G.L. Chapter 44, §8C); however, the borrowing cannot actually take place until state or federal approval of grant has been given. Municipal approval may also take place prior to Step 1 but Participants should insure proper compliance with Self-Help policies and procedures.

- (b) Exclusive of borrowing situations, and if the community wishes, reimbursements may be re-appropriated back into the Participant's Conservation Fund. Said authorization may be voted in the original article or submitted in subsequent Town Meeting or City Council votes; otherwise, reimbursements must be deposited into the General Fund as per Massachusetts General Law. Communities utilizing accounts funded by the Cape Cod Land Bank Act, other local land bank acts, or the Community Preservation Act, should consult with the Department of Revenue, Division of Local Services for guidelines.
- (9) State Procurement Law: Acquisition projects must adhere to the state's procurement laws, M.G.L. Chapter 30B. Work with your municipal procurement officer to ensure that your project conforms to the procurement law which will include advertising in the Central Register 30 days prior to closing. State procurement law also prohibits EOEA from reimbursing for the acquisition costs if the land is acquired prior to the starting date on the state standard contract for the project. **DO NOT CLOSE WITHOUT AN EXECUTED STATE STANDARD CONTRACT FROM EOEA.**
- (10) Participant makes land purchase *only* after having received an affirmative Town Meeting or City Council Vote, and an executed state standard contract from the Secretary of Environmental Affairs.
- (11) Participant files billing form with Division after purchase completed. A Self-Help acknowledgement sign must be in place at main access point before payment will be made.
- (12) Billing form and documents reviewed by the Division for any changes from the project application. A corrective amendment to the project agreement will be executed and returned for signing and recording by the Participant if the project has changed.
- (13) Report to Secretary by Director on billing and request for approval.
- (14) Payment is made. Participant receives reimbursement, typically via electronic transfer.
- (15) Participants should review DCS Post Completion requirements regarding fees, user limitations, and prohibitions against converting the conservation land to any other use, or transfer of ownership.

APPLICATIONS CANNOT BE SUBMITTED ON-LINE

For DCS Office Use Only

Self-Help # _____
Total Project Cost: _____
Reimbursement Rate: _____ %
Grant Request: _____
Approval Date: _____

CONSERVATION LAND ACQUISITION PROJECTS
APPLICATION FORM – Due Monday, August 1, 2005 by 3PM
FY06 ANNUAL GRANT ROUND
Massachusetts Self-Help Program
Federal Land and Water Conservation Fund

1. Applicant Information

Municipality:

Project Name:

Project Acreage:

Present Ownership Information

Name:

Address:

Assessor's Sheet Number:

Lot Number:

County:

Watershed:

- 2. Proposed Project Cost** - Maximum grant award available is \$500,000.00. The total project cost is the appraised value, or actual purchase price, whichever is less. The reimbursement rate for state funded projects varies by community and is available from DCS. Federally funded projects cannot exceed a 50% reimbursement, up to the maximum grant award of \$500,000.

Policy Change Now in Effect: DCS cannot reimburse for lands purchased prior to the start date on a state standard contract, in accordance with state procurement law. Therefore, DCS can no longer issue permission to proceed on an acquisition prior to project selection.

Total Project Cost: \$ _____
Reimbursement Rate (confirmed with DCS): _____ %
Grant Request: \$ _____

Is your project still viable at a 50% reimbursement, (up to the maximum grant award of \$500,000?) **Yes** **No**

Negotiated Sale:	Yes	No
Do you have a Purchase and Sales Agreement or Agreed Price?	Yes	No
If yes, Amount:	\$	
Is Clear Title available?	Yes	No
If no, is an eminent domain taking anticipated?	Yes	No
If yes, proposed pro tanto award amount:	\$	

Appraisal Report #1

Valuation: \$ _____

Appraiser: _____

Valuation Date _____

Appraisal Report #2

Valuation: \$ _____

Appraiser: _____

Valuation Date _____

Attach a one page description of the proposed project budget including:

- The source of all local funding including donations, Community Preservation Act, or Cape Cod Land Bank Act funds.
- Description of the details of any donation, if applicable. Such funds should be gifted to the community and earmarked for the project.
- Description of any other sources of funding including federal, state, municipal or nonprofit organizations. List these partners and describe their contribution. Not all sources of state and federal funds are compatible with DCS grant programs.

3. Description of Natural Resource

COVER, Acres in

Forest:
Wetland:

Open:
Water:

Agricultural Use:

TOPOGRAPHY, Acres in

Flat:
Rolling

Hilly:
Mountain:

WATERFRONT, Linear feet

Ocean:
River:

Lake:
Stream:

4. Project Description

Describe purpose of acquisition and proposed use in a *one page attachment*. Use the Conservation Land Acquisition Project Rating System as an outline for the description to ensure the maximum score possible for your Project. Comment only on project quality; DCS calculates the demographic score and obtains the Commonwealth Capital Score from the Office for Commonwealth Development (see #7, and Required Attachment #1). Be sure to include information on water resources, green infrastructure, biodiversity and resource protection, intended use of the property, and joint or cooperative efforts with other agencies or organizations. **Provide a USGS topographic map with an outline of the Project boundary. Include the location, ownership and acreage of other public or quasi-public open space abutting, or close to, the Project on the topographic map (see Required Attachment #2).**

Does Property have frontage on a street?

Yes

No

If yes, list name of street(s):

Zoning, Present Use, and Past Use(s) of the Property:

Are there Buildings or Structures on the Property?

Yes

No

If yes, list each one estimating value and current use, as well as intended use should this project be funded.

Indicate any Current or Proposed Restrictions on the Property (zoning restrictions, deed restrictions, conservation restrictions, rights-of-way, etc.).

5. Municipal Open Space and Recreation Plan

Describe how your Project meets the recommendations in your current Open Space and Recreation Plan and cite the page number references to your plan. Remember: your community must have a current, approved plan on file with DCS, or submit a draft to DCS by the application deadline to be eligible to apply for funding. The plan must be completed and approved by DCS before a final grant payment is released. (If we already have a copy of your plan, there is no need to submit another copy.)

6. Town Meeting or City Council Approval.

Submit certified copy of the vote, or draft language. Vote must conform to sample vote language criteria, available online from DCS.

Does your project have an affirmative town meeting vote or city council approval?

Yes

No

If not, what is the date for the vote?

7. Commonwealth Capital Application

In order to encourage municipalities to implement land use practices that are consistent with Smart Growth, the Romney Administration has implemented an incentive policy known as Commonwealth Capital for discretionary grant programs. The project rating systems for the Self-Help and Urban Self-Help programs have been modified to reflect a municipality's Commonwealth Capital Score. In order to receive a Commonwealth Capital Score, municipalities must apply directly to the Office for Commonwealth Development (OCD). The application is available online at <http://www.mass.gov/ocd/comcap.html>.

Have you applied for a Commonwealth Capital Score?

Yes; Score is attached to this application.

Yes; Cover letter confirming submission is attached to this application.

8. Signatures

Attach community's legal authority to apply for the grant, and the Chief Executive Officer's legal authorization to execute contracts. This is a resolution, motion or similar action that has been duly adopted or passed as an official act of the community's governing body which authorizes the filing of the application, including all understandings and assurances contained therein.

By _____
Chief Executive Officer

_____ Date: _____
Type Official's Name

Conservation Commission Members (Other town agencies or boards are not eligible for Self-Help funds.)

Signature	Printed Name	Address
	<i>Chair</i>	

9. Project Manager

Attach authorization from the Chief Executive Officer identifying the individual named below who acts as the official representative of the community in connection with this application. The Project Manager will coordinate all aspects of the acquisition: from application to reimbursement should the application be successful. Ideal candidate will have access to the city or town's Chief Executive Officer, Conservation Commission, Municipal Counsel, and Municipal Treasurer.

Name:

Affiliation with Municipality

Address at City or Town Hall:

Daytime Phone Number:

Fax Number:

E-mail address:

Date Prepared:

Submit one application with original signatures and all required attachments, and one copy with all attachments excluding additional copies of the appraisal reports. Only one copy of each appraisal report is required.

REQUIRED ATTACHMENTS – use this as a checklist and please label attachments.

1. **Commonwealth Capital Application** – submit copy of cover letter to confirm that your community has applied for this rating, or a copy of OCD's response and your score, if available. The Commonwealth Capital application, as well as additional guidance documents and information about the Commonwealth Capital Program, is available on Commonwealth Development's website at: <http://www.mass.gov/ocd/comcap.htm>.
2. **USGS topographic map** showing project boundary and relationship to other public or quasi-public open space properties nearby. Show current use of adjacent lands and give ownership information if land is protected open space. If contiguous lands are under public ownership, identify agency and use. This map will serve as a locus map for site inspection by DCS staff. *This is one of the most essential attachments – please do a thorough job!*
3. **Conservation Commission information** - Certified copy, by city or town clerk, of date of acceptance of Massachusetts General Laws Chapter 40, Section 8C establishing your municipal conservation commission; and a certified copy, by city or town clerk, of present members of the conservation commission.
4. Certified copy of affirmative **Town Meeting vote** or **City Council Order**, or draft language. Vote must conform to DCS sample vote language.
5. **Two appraisal reports** as required by DCS. Note that federally funded projects will be required to meet federal appraisal standards found at www.usdoj.gov/enrd/land-ack/yb2001.pdf. One copy of each report is sufficient.
6. **Municipal Open Space and Recreation Plan**, if not already approved and on file at DCS. Plans are approved by DCS for up to five years of eligibility in DCS grant programs. (If we have it on file, don't send another copy.)
7. **Plot plan or survey map** showing the project boundary. The project area must be shown in enough detail to be legally sufficient to identify the lands to be protected. One of the following methods must be used.
 - Registered survey plan with deed references
 - Assessor's map with block and lot number
8. **Draft Conservation Restriction (CR)** – if your project involves the purchase or conveyance of a CR, please complete a CR application and submit a draft restriction along with this application. To obtain a copy of the Conservation Restriction Handbook, visit www.state.ma.us/envir/conservation/restrictions.pdf.
9. **Other State Agency Review** – All applicants should request comments on their projects from the Massachusetts Natural Heritage and Endangered Species Program (MNHESP) at www.state.ma.us/dfwele/dfw/nhesp/heritage, and the Massachusetts Historical Commission (MHC) at www.state.ma.us/sec/mhc.

IT IS NECESSARY FOR THE EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS, DIVISION OF CONSERVATION SERVICES, TO HAVE ALL OF THE ABOVE MATERIAL. FAILURE TO ANSWER ALL QUESTIONS AND SUBMIT THE SUPPORTING DATA MAY RESULT IN THE REJECTION OF THE APPLICATION. IT IS UNDERSTOOD THAT ANY PROPERTY ACQUIRED WITH DCS GRANT ASSISTANCE IS OPEN TO ALL CITIZENS OF THE COMMONWEALTH, AND THAT NO MAJOR ALTERATION OF THIS PROPERTY, OR CHANGES IN THE PROPOSED USES CAN TAKE PLACE WITHOUT THE PRIOR APPROVAL OF THE SECRETARY OF THE EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS, AND POSSIBLY THE GENERAL COURT AND/OR THE NATIONAL PARK SERVICE.

SAMPLE MUNICIPAL VOTE

Each community should draft its warrant article with the guidance of municipal counsel. The form that these articles take will vary with the means of acquisition, source of funding, type of land, etc. All articles should include the following elements:

- I. Authorization to expend an amount equal to the full acquisition and/or development cost of the project. (All DCS grant programs are *reimbursement* programs, not match programs; therefore, the total project cost must be raised or appropriated through current tax levy or borrowed; project bills paid by the municipality and then a reimbursement request is made to DCS for the grant amount.)
- II. Indication of the source of funding (Conservation Fund, Community Preservation Act Fund, Land Bank Fund general fund, borrowing). M.G.L. Chapter 44, sections 7, 8C, and 12(a) on Municipal Indebtedness, allows cities and towns to borrow in anticipation of reimbursement. It is strongly recommended that the warrant article is prepared with the advice of city/town counsel, treasurer and accountant to ensure that the appropriate section is noted in the warrant article. These sections permit the municipality to borrow in anticipation of a grant and require that a grant agreement be executed before the treasurer actually obtains the borrowed amount. This assures DCS that the municipality has 100% of the total project cost, and assures the municipality that the project need not be completed if the proposal does not receive grant assistance. For further advice, please contact the Department of Revenue, Division of Local Services at (617) 626-2300.
- III. Indication that land is being acquired for conservation and passive outdoor recreation purposes (Chapter 40, Section 8c) or acquired and/or developed for active recreation purposes (Chapter 45, Section 3, for example) and will be in the care and control of the appropriate commission or department.
- IV. Authorization for the conservation commission or recreation department to seek reimbursement under the specific DCS grant and enter any necessary contracts thereto.
Self-Help Act: *Chapter 132A, Section 11*
Urban Self-Help: *Chapter 933 Acts of 1977, as amended*
Federal Land & Water Conservation Fund: *P.L. 88-568, 78 Stat 897*
- V. If a taking is involved in an acquisition project, the conservation commission or recreation commission must, in writing, request the selectmen or city council to take the property via eminent domain.

The following is a sample vote authorizing the acquisition of Self-Help land (please refer to IV above for the appropriate grant program or programs). This is intended only as a point of reference. **Municipal Counsel should always be consulted when drafting Town Meeting warrant articles or City Council orders.** The draft article or order must be submitted to DCS for review prior to the Town Meeting or City Council vote

Sample for Self-Help Conservation Acquisition Project

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for conservation and passive recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 40, Section 8c, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of MUNICIPALITY, and the Conservation Commission be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for grants and /or reimbursements from the Commonwealth of Massachusetts deemed necessary under the Self-Help Act (Chapter 132A, Section 11) and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

Projects Funded through the Community Preservation Act or Cape Cod Land Bank Bill

The Community Preservation Act (CPA) and the Cape Cod Land Bank Act (LBA) state that land acquired with these funds are to be bound by a permanent restriction. DCS acquisition projects meet this requirement because each project must:

1. Obtain an affirmative Town Meeting or City Council Vote stating the purpose for the acquisition (either conservation or recreation);
2. Include similar language in the deed;
3. Record a copy of the Project Agreement as an adjunct to the deed; and
4. Include a copy of the Project Agreement as an appendix to the land management plan.

These steps effectively protect the land under Article 97 of the Amendments to the State Constitution. Additionally, since DCS grant funds were used, any conversion to a non-conservation or non-recreation use requires the community to replace the converted property with land of equal monetary value, and conservation or recreational use.

However, some communities may still wish to further protect the property by conveying a conservation restriction to a conservation or recreation nonprofit organization (a “qualified holder”). Conveying a conservation restriction over “parkland” normally would trigger the formal “Article 97” disposition process. However, it is the opinion of EOEA and the Massachusetts Land Trust Coalition Attorney Referral Panel that: “If a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a “disposition” of an interest in the property within the meaning of Article 97.”¹

Points to Remember if a CR is conveyed:

1. It is preferable for the municipality to vote to impose the restriction at the same time that it votes to acquire the property, and that the purchase of the property and conveyance of the restriction be a simultaneous closing.
2. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
3. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
4. The “proceeds” clause of the conservation restriction must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the holder of the conservation restriction receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

Sample Vote Language for Community Preservation Act or Cape Cod Land Bank Projects

To see if the Town [or City] will vote to raise, borrow and/or appropriate \$Total Project Cost for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately __ +/-acres owned by OWNER as described on Assessors Map __, Parcel __, to be managed and controlled by the Conservation Commission of the Town [or City] of XXX in accordance with Chapter 40, Section 8C for conservation and passive recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act [or Cape Cod Land Bank Act], and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager [or Board of Selectmen or City Council or Mayor] be authorized to file on behalf of the Town [or City] of XXX any and all applications deemed necessary under the Self-Help Act (M.G.L. Chapter 132A, Section 11) [or LWCF or USH] or any other applications for funds in any way connected with the scope of this acquisition, and the Town Manager and the Board of Selectmen [or Mayor and the City Council] and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town [or City] of XXX to affect said purchase. Said conservation restriction may be granted to the [Name of Grantee] or any other organization qualified and willing to hold such a restriction.

**SELF-HELP and URBAN SELF-HELP PROGRAMS
FEDERAL LAND AND WATER CONSERVATION FUND
APPRAISAL REPORT GUIDELINES**

If your project involves an acquisition, the appraisal reports are absolutely critical to the success of your project. All properties to be acquired must be appraised in accordance with the Division's requirements by a qualified, independent and disinterested appraiser. The reports must be submitted along with the preliminary application by the grant round application deadline. If your project is selected for funding, you should wait until DCS has certified a value based on the appraisal reports before you begin formal negotiations with the owner. Because these reports determine the possible grant award, and because they are reimbursable under the Self-Help and Urban Self-Help programs, it is to your advantage to make sure that they are acceptable reports in the early stages of your project. The appraisal used to certify a value must not be more than a year old, when measured from the effective date of the appraisal to the date the transaction is closed. Attached are the appraisal standards covering both the required documentation, as well as the type of report necessary based on the estimated value of the property.

1. **Number and Type of Appraisal Reports Required:** If the subject property is worth more than \$75,000, or if it is to be purchased from another public agency, or involves an exchange of real property, two full appraisal reports submitted by two different appraisers are required. For property worth between \$25,001 and \$75,000, one full appraisal and one limited appraisal is required. For property worth between \$1.00 and \$25,000, two limited appraisals are required. Neatness counts. A full narrative appraisal is a comprehensive analysis, substantiated by documented market data, of the value of a property. Full appraisals must be bound, in book-fashion, in the left margin, in a durable cover with an identification of the property on the cover page. The paper must be a good grade bond of size 8 1/2"x 11". All pages must be numbered consecutively, including all exhibits, and each important heading must be shown in the Table of Contents. Special note for federally funded projects: proposals submitted to the National Park Service for federal assistance under the Land and Water Conservation Fund must also comply with the Uniform Appraisal Standards for Federal Land Acquisitions. These standards are available at www.usdoj.gov/enrd/land-ack/yb2001.pdf. If your project is selected for federal funds, you may be required to revise your appraisal reports.
2. **The Appraiser's Scope of Practice:** The appraiser must be licensed and/or certified by the Massachusetts Board of Registration of Real Estate Appraisers, and have the appropriate license or certification for the type of land that is appraised. In addition, the appraiser must be certified in accordance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). The appraiser should supply you with this professional information at your request. Often the project will require a state certified general real estate appraiser. The following is an excerpt from the state regulations for the Board of Registration of Real Estate Appraisers.

264 CMR 7.00 SCOPE OF PRACTICE

7.01: Scope of Practice

(1) State Licensed Real Estate Appraisers. State-licensed real estate appraisers may appraise non-complex one-to-four unit residential property having a transaction value less than \$1,000,000 and complex one-to-four unit residential property having a transaction value less than \$250,000.

State-licensed real estate appraisers may appraise vacant or unimproved land that is utilized for one-to-four family purposes, and where the highest and best use is for one-to-four family purposes.

State-licensed real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

In addition state-licensed real estate appraisers may appraise properties as specified by the Federal Financial Institution Regulatory Agencies.

(2) State-Certified Residential Real Estate Appraisers. State-certified residential real estate appraisers may appraise residential properties with one-to-four units without regard to transaction value, as well as complex one-to-four unit residential property without regard to transaction value.

State-certified residential real estate appraisers may appraise vacant or unimproved land that is utilized for one-to-four family purposes, and where the highest and best use is for one-to-four family purposes.

State-certified residential real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

In addition, state-certified residential real estate appraisers may appraise properties as specified by the Federal Financial Institution Regulatory Agencies.

(3) State-Certified General Real Estate Appraisers. State-certified general real estate appraisers may appraise all types of real property. Regulatory Authority: 264 CMR 6.00 (promulgated 6/28/96); M.G.L. c. 13, s. 92; M.G.L. c. 112, §. 173-195.

3. **The Appraiser's Contract:** Include the appraisal standards as a condition of the appraiser's contract. Consider withholding final payment to the appraiser until DCS accepts the report.
4. **Common Comparable Sales Problems:** Reports usually contain comparable sales and the examples offered should be just that: comparable. The locations should be similar, preferably the same town. If they are not, the narrative must explain why that particular sale is still comparable. The highest and best use and market situations of the comparable sale should be the same as the subject property. These sales must also represent arms length transactions – generally municipal transactions are not arms length.
5. **Common Valuation Problems:** The highest and best use must reflect a market situation, and typically "open space" or "conservation" is not a marketable situation. If the subject property cannot support development, perhaps it would be attractive to abutters who wish to add to their own holding (assembly) or the property may have some timber value, or if the property is part of a larger parcel, a before and after value should be determined. Any restrictions placed in the deed by the grantor (seller) can possibly lower the value of the property. Special Note: appraisals submitted as part of a conversion proposal must value the converted property as if it were developable, unencumbered by any conservation or recreation restrictions.
6. **Complicated Circumstances:** Appraisals should be analytical narrative reports following current professional appraisal standards. All components of the report such as introductory and supporting data, valuation analysis, limiting conditions, and certifications should meet these standards. If necessary, the Division of Conservation Services will furnish supplementary specifications which delineate additional required data in the appraisal of highly specialized properties or properties to be acquired under unusual circumstances.
7. **Limited Appraisal Report:** A limited appraisal is a statement from a qualified appraiser that a property is worth a given amount. It can be based upon the appraiser's knowledge of land values, and should be substantiated by some documented data such as comparable sales, timber cruiser's report, etc. Limited appraisals should include a short statement of the appraiser's experience and qualifications, a brief description of the factors considered in valuing the property and the means by which the appraiser concluded the value of the parcel. The Division of Conservation Services reserves the right to request additional information if it deems the limited appraisal to be inadequate. Please see additional notes on page 8.
8. **Eminent Domain Taking:** Clients should notify the appraiser if eminent domain taking is contemplated or a possibility. All participants must provide for fair and equitable treatment of persons and businesses to be displaced as a result of the Project. Participants must abide by the requirements of M.G.L. c. 79A or c. 80A (both pertain to eminent domain takings), as amended. Titles II and III of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) must be complied with if the participant is seeking concurrent federal financial assistance or if subsequent development stages are contemplated with the use of any federal funds.
9. **Review Appraisal:** Generally, when appraised values are within 10% of one another there will be no need for further appraisal resolution providing both reports are found to be adequate. Appraisers may be asked to reconcile their value differences, however, when the values differ by more than 10%. When, in the opinion of the Director, the value of the property remains in doubt, further appraisals may be required to reach a value conclusion. The resolution of value may be accomplished through the performance of entirely new appraisals or through the engagement of an appraiser as qualified above for the purpose of reviewing existing appraisal reports and certifying a final value conclusion. This same procedure also applies to limited appraisals deemed inadequate by the Director, or which differ by more than 10% in value.

APPRAISAL REPORT REQUIREMENTS

I. INTRODUCTION

1. Title Page

- a. Land area of subject property
- b. Street number and town location
- c. Name of property owner(s)
- d. Effective date of appraisal
- e. Name and address of appraisers

2. Table of Contents – List all essential items in the report.

3. Owner's Property Inspection Certificate

The appraiser must invite the landowner or his or her representative to accompany the appraiser during inspection of the property. To allow the landowner time to make the necessary arrangements, the invitation should be made appropriately in advance of the planned inspection date. Reasonable efforts should be made to include the landowner or his or her representative in the inspection. The appraiser should consider any information the landowner may provide which is relevant to the issue of the value of the property inspected. However, the appraiser must use his or her best judgment as to the usefulness of any information provided by the landowner. Include the Certificate stating that the landowner or designated representative has participated or declined to participate in the field inspection of the property in the addenda of the appraisal report. See Certificate form on page 9 of these requirements.

4. Statement of Limiting Conditions

The appraiser should state that he/she assumes the title to be marketable, that he/she assumes no responsibility for legal matters, and that all data furnished by others are presumed correct. The appraiser should also mention any other assumptions he/she has made.

5. Summary of Important Facts and Conclusions

II. FACTUAL DATA

1. Purpose of Appraisal and Definition of Value(s) required, and reason for the appraisal.

2. Identification of the Property

Legal description of the whole tract and that to be acquired. Properly identify the area (plot plan, etc.)

3. Area and Neighborhood Analysis

The appraiser should present all findings and conclusions about the external influences (social and economic) that could affect the value of the subject. The presentation should be analytical and related to the valuation problem at hand. Avoid itemization of facts and figures not pertinent to value. Include: (Items d, e, and f required for appraisals of developable land only).

- a. Description of Community (rural, suburb, resort, etc.)
- b. Ten-year population trend
- c. Reasons for trend, i.e., new industries, outward migration, etc.
- d. Rate of construction activity in town
- e. Number of bona fide building permits issued in past five years, and those pending, for type of development considered for the subject property
- f. How many lots per year could be absorbed?
- g. Utilities available in area
- h. Attitude of town officials toward development
- i. Master Plan for town?
- j. Immediate neighborhood - dominating influences and detrimental factors?

4. Area Map

Must indicate location of subject property as exactly as possible (a state highway map is suggested)

5. Location and Neighborhood Map

Must show roads leading to subject to facilitate inspection by review appraiser (a U.S.G.S. topographic map is suggested)

III. PROPERTY DATA

1. Site Description

- a. Total land area and brief description of improvements
- b. Total acreage under appraisal
- c. Shape of parcel and bordering properties
- d. Total street frontage
- e. Type of land – field, wooded, ledge, marsh, etc.
- f. Brooks, rivers, etc.

- g. Soil description and analysis from U.S.D.A. Soil Survey
 - h. Utilities available to site (how far from sewer/water lines)
 - I. If no town sewer, will property perc?
 - j. Include perc. test results, if available
 - k. If no town water, will town allow new wells?
 - l. Check possibility of fertilization contamination of wells if land has been farmed
 - m. Easements
 - n. Gravel, loam, timber, etc. – commercial value? A statement must be made concerning the existence or nonexistence of mineral deposits, loam and timber, having a commercial value.
 - o. Site Plan (adequate for eminent domain takings if necessary)
2. Exhibits - May be placed in the body or Addenda of the report at the discretion of the appraiser.
- a. Soil Map
 - b. Topo map on which the boundaries of subject are superimposed
3. Improvements and Conditions
This description may be by narrative or schedule form and must include dimensions, cubic and/or square foot measurements, and where appropriate, a statement of the method of measurement used in determining rental areas such as full floor, multi-tenancy, etc. Site and Improvements Analysis will show the appraiser's findings from inspection of the site and buildings, including an indication of both positive and negative features that influence value. This discussion should set out succinctly the basis for the adjustments and/or deductions made by the appraiser in applying the several alternative analytical approaches to value estimation.
4. Equipment
This must be described by narrative or schedule form and must include all items of equipment and their state of cannibalization. The current physical condition and relative use and obsolescence must be stated for each item or group appraised, and whenever applicable, the repair or replacement required to bring the property to useable condition. Any related possessions or equipment, such as tenant trade fixtures, which are not attached or considered part of the realty, must be separately inventoried. Where applicable, these detachable or individually owned items must be separately valued.
5. History
State briefly the purpose for which the improvements were designed, dates of original construction and major renovation and/or additions; include, for privately owned property, a ten-year record for each parcel, of all sales and if possible, offers to buy or sell, and recent lease(s); if no sale took place in the past ten years, include a report of the last sale. The history should include parties to the transaction, dates of transfer, and consideration paid. If the property has been owned by the present owner for more than ten years, the appraiser should so state.
6. Assessment
Current assessed valuation (state if property is under M.G.L. c. 61, 61A or 61B) tax rate and annual tax bill. If the property is not taxed, the appraiser must estimate the assessment and probable taxes if property were placed on the tax rolls.
7. Insurance
Give the estimated rate per thousand and the annual cost of adequate insurance coverage (not necessarily present coverage). Only applicable on income approach.
8. Zoning
- a. Zoning of subject property, including dimensional requirements
 - b. Wetlands if applicable; floodplain regulations, overlay districts; water resource of acquire protection districts.
 - c. Include pertinent section from by-laws, if possible (in Addenda)
 - d. Copy of subdivision control law or excerpts if applicable (in Addenda)
 - e. If property is not zoned, state what the zoning probably would be, and if rezoning is imminent, discuss further.

IV. ANALYSIS AND CONCLUSIONS

1. Highest and Best Use
- a. The report must state the highest and best use that can be made of the property as vacant and with existing improvements and where applicable machinery and equipment for which there is a current market. In the appraisal of vacant land, the terms "highest and best use" and "feasibility" should be synonymous and foremost in the appraiser's thought process.
 - b. Assuming the highest and best use of undeveloped land is for residential subdivision (based on an analysis of all the preceding data), the narrative should be accompanied by a subdivision sketch showing the number of sites the tract would yield. While it need not be prepared with the exactness of a surveyor's plan, the sketch should show an outline of the number of lots which could be subdivided and clearly indicate those areas unsuitable for development because of wetlands, ledge, severe slope, etc.
 - c. A study of the zoning should reveal, and the report should discuss the following information:
 - (1) Are pork chop lots, cluster development, condominiums, etc. allowed?
 - (2) Is zero lot line development permitted?

- (3) Would a higher lot price for buildable land result if non-buildable land were designated as permanent open space?
 - (4) Would a greater net value result from sales of over-sized lots utilizing only existing street frontage?
 - d. Will the town pay for extension of sewer/water lines to site?
 - e. Acceptability of on-site sewer, water facilities.
 - f. Value of gravel or any other minerals or timber having commercial value on site.
 - g. Special requirements of Planning Board and/or Conservation Commission.
 - h. Number of lots that could be sold per year/total sell-off time.
 - i. If the estimate of highest and best use is for a use not permitted under the zoning, the appraiser must demonstrate a reasonable probability for a change in zoning for such use.
2. The Appraisal Process
- a. Standard definitions
 - b. If both Cost of Development Approach and Direct Sales Comparison Approach have not been used, in valuing land, why? If Income, Cost, or Sales Comparison Approaches have not been used in valuing improved property, why?
3. Valuation of Vacant Land Cost of Development Approach
- a. See Highest and Best Use section
 - b. Cost figures should be confirmed with local developers and professionals and, if deemed necessary, and engineering report should be included.
 - c. Local fees and procedures should be checked (e.g., tap-in fees, park-land provisions, etc.)
 - d. Extreme care must be exercised in estimating annual cash flow (Front end costs may make the use of averages inappropriate)
 - e. The discount rate must be supported by the market and equated to the risk involved. The risk rate in land development is generally higher than for income-producing real estate.
 - f. The appraiser must allow for the land developer's profit i.e., return on investment. This may be expressed as a percentage mark-up of original cost or a percentage discount of final selling prices.
 - g. Retail lot prices (by lot type if more than one category) should be supported by a comparable sales table. In valuation assignments relative to small parcels of land or approved building lots, the primary method of appraisal must be the Direct Sales Comparison Approach provided that truly comparable sales can be found. In appraisals of large parcels, it is highly unusual to find truly comparable acreage sales and, therefore, to make meaningful comparisons between acreage sales for such variables as street frontage, topography, development cost, existence of wetlands, etc. Therefore, in appraising large parcels of land with definite development potential, the cost of Development Approach should be relied upon and closely supported by a value range arrived at through use of comparable but somewhat dissimilar acreage sales. The most reliable method of valuing unbuildable land is through use of sales of comparable unbuildable land.
4. Direct Sales Comparison Approach
- a. Comparable sales (lots and acreage) should be summarized including perimeter sketches (include in Addenda)
 - b. A comparable sales map should be included
 - c. Sales should be presented in table form, showing adjustment for time
 - d. Each sale must be discussed in detail in the narrative including such factors as:
 - (1) time
 - (2) location (desirability, view, etc.)
 - (3) zoning
 - (4) frontage
 - (5) topography (including soil type)
 - (6) utilities
 - (7) cost of extending or installing utilities
 - (8) financing (mortgage back, etc.)
 - (9) contingency sale based on future development of individual lots
 - e. Sales from neighboring towns may be used if necessary, providing adjustments are made for market characteristics, etc.
5. Valuation Improved Properties
- a. Cost Approach: This approach must include calculations of reproduction or replacement cost of the improvement(s) and state the source, (book and page or computer printout, if a national cost service), of all figures used. The dollar amounts of physical depreciation and functional and economic obsolescence or the omission of same must be explained in narrative form. Depreciated costs new of improvements should then be added to a land value, supported by adjusted comparable land sales, and an appropriate developer's profit to indicate the value of the appraised property.
 - b. Income Approach: This approach must include adequate market data to support each of the costs, rents, and capitalization or discount rates used, and must be arranged in detailed form to show at least 1) estimated gross rent

or income; 2) allowance for vacancy and collection loss; 3) an itemized estimate of total expenses, 4) net operating income. N.O.I. must be capitalized at an appropriate overall rate (with market support) into an indicated market value. Investment properties may (also) require a Discounted Cash Flow Analysis, reflective of the requirements of investment/buyers in the current market.

c. Direct Sales Comparison Approach: All comparable sales used must be confirmed by the buyer, seller, broker, or other party having knowledge of the price, terms, and conditions of sale. Each comparable must be explained and adjusted in relation to the subject property to indicate the reasoning behind the appraiser's value estimate as indicated by this approach. Adjustments for time, location, size, age and condition and terms of sale and financing, should be included as well as the conditions of each sale. Photographs of comparable sales are required.

V. VALUE SUMMARY – VACANT LAND VALUATIONS

1. The estimate of value arrived at by means of the Development Approach should be compared on a per acre basis with the value arrived at by the Direct Sales Comparison Approach.
2. If the values do not closely agree, the reason for the divergence should be explained fully.

VI. CORRELATION AND FINAL VALUE ESTIMATE – IMPROVED PROPERTY VALUATION

The appraiser must interpret the values indicated by each approach, and must state his reasons why one or more of the conclusions reached are indicative of the market value of the property.

1. Less than Fee Acquisitions

Where the appraisal is for determination of the value of less than fee interests in land (e.g. conservation restrictions or easements), the appraiser must determine the value of this interest by use of the before and after method. The appraiser must fully detail the analysis of the highest and best use of the subject property without the restriction or easement, and clearly explain any changes in the highest and best use after imposition of the restriction or easement.

2. Severance Damages

If the property being appraised is a partial acquisition or taking, or is a separate parcel but physically contiguous to other land of the owner, or is under the same ownership but physically non-contiguous to the other land of the owner (but which may add value to the non-contiguous parcel, e.g., by providing access to a body of water), severance damages must be fully described and discussed. The method of value estimation must be the before and after method. The amount of the severance damages must be determined mathematically as well as described in narrative form.

3. Enhancement

The appraiser must investigate and determine whether the acquisition will enhance the value of the remaining property of the owner. If so, the method of value estimation must be the before and after method. The Report must set forth the enhancement value separately, with a full discussion and analysis of the factors giving rise to the enhancement.

VII. CERTIFICATION OF APPRAISER

1. He/she has personally inspected the property.
2. He/she has no present or contemplated interest in the property.
3. Appraiser's opinion of the market value of the property giving the date of the valuation, the amount of the valuation, the appraiser's signature, and the date the appraisal report was submitted.

VIII. REQUIRED EXHIBITS IN REPORT OF ADDENDA

(Any or all items may be placed in the body of the report at the discretion of the appraiser.)

1. Comparative sale data map – showing location of comparable sales used in appraisal.
2. Location map – showing locus of the subject property and neighborhood and area involved.
3. Plot plan and/or floor plan if appropriate – These plans can help the viewer visualize the written description of the subject property and both positive and negative features. Wetlands and flood plain maps if appropriate.
4. Adjustment chart or graph – showing comparable sales adjusted to the subject by those factors of comparability.
5. Photographs – Pictures must show at least the front elevation of the major improvements, plus any unusual features. There should also be views of the abutting properties on either side and that property directly opposite. When a large number of buildings are involved, including duplications, one picture may be used for each type. Views of the best comparables should be included whenever possible. Except for the overall view, photographs may be bound as the page facing the discussion or description that the photographs concern. All graphic material must include captions.
6. Owner's property inspection certificate.
7. Appraiser's qualifications.

Notes on Limited Appraisal Reports

A limited appraisal report is a brief description of the subject property to include physical characteristics, present use, zoning, public utilities associated with the land, deed restrictions, and any other pertinent information. A limited report includes:

1. A legal description of the real property to be acquired and a plat.
2. At least a 5-year history of conveyances (sales and transfers), including parties to the transactions, dates of purchase, and amounts of consideration.
3. An analysis and statement of the property's highest and best use.
4. Supporting data, including two or three comparable real property sales, a brief analysis of those sales, and a map showing their locations relative to the land acquired.
5. The appraiser's certification and signature.
6. The date the value estimate applies.
7. A statement of the appraiser's experience and qualifications.
8. A signed Owner's Property Inspection Certificate (see page 8).

Sources And References

These appraisal specifications are based on material from the following sources:

1. Appraisal Specifications of the U.S. Government
2. Appraisal Specifications of the Commonwealth of Massachusetts Department of Agriculture's APR Program.
3. The Internal Revenue Service Tax Appraisal Regulations as published in the Federal Register, December 31, 1984.
4. EOEALand Acquisition Policy – Appraisals dated September 1, 1995.
5. Federal Land and Water Conservation Fund Grants Manual Chapter 675.2.6.B.
6. Uniform Standards of Professional Appraisal Practice, 1993.
7. Uniform Appraisal Standards for Federal Land Acquisitions. These standards are available at www.usdoj.gov/enrd/land-ack/yb2001.pdf. If your project is selected for federal funds, you may be required to revise your appraisals.

OWNER'S PROPERTY INSPECTION CERTIFICATE

1. _____ () _____
Name(s) of Supposed Owner(s) Telephone Number with Area Code

Address

Town/City State Area Code

2. Please check appropriate line

_____ I wish to accompany the appraiser on an inspection of my property.

_____ I wish to have my representative accompany the appraiser(s) on an inspection of my property. (Please fill in Item 3.)

_____ I do not wish to accompany the appraiser(s) on an inspection of my property.

3. _____ () _____
Name of Authorized Representative Telephone Number with Area Code

Address

Town/City State Area Code

4. The following individuals and/or entities occupy the premises in accordance with an agreement as indicated (lease, life estate, etc.):

a. _____ b. _____
Name of Individual or Entity Name of Individual or Entity

Occupied Premises Occupied Premises

Type of Agreement Type of Agreement

5. I certify that I have given the above-referenced tenants or occupants notice of the appraiser's inspection of the property.

Name(s) of Supposed Owner(s)

6. I hereby authorize the appraiser to enter and inspect the property, after reasonable notice, for the purposes of preparing an appraisal.

Owner's Signature Date

CONSERVATION LAND ACQUISITION PROJECTS SELECTION SYSTEM
Massachusetts Self-Help Program & Federal Land and Water Conservation Fund

In order to distribute limited grant funds among an overwhelming number of applicants, a project selection system has been developed for conservation land acquisition projects. The selection system includes an interagency review and rating of each project, and an evaluation of the applicant community's commitment to sustainable development criteria developed by the Office for Commonwealth Development. The rating system considers demographic, social, environmental and project quality factors in order to identify those projects which best protect both natural and passive outdoor recreational resources in communities which have the greatest need for financial assistance and which have made efforts to implement their open space plans in coordination with local planning for sustainable growth.

Interagency Review

The Executive Office of Environmental Affairs' Interagency Lands Committee (ILC) reviews conservation land acquisition project applications to ensure project coordination with state agency programs, executive orders and environmentally sound land use policies. The Committee consists of representatives from the Departments of Conservation and Recreation, Fish and Game, and Agricultural Resources, and can include other EOEa personnel. The ILC considers each project and its impact on the statewide conservation vision articulated in *An Open Space Plan for Massachusetts: A Partnership*, and *Massachusetts Outdoors 2000! – The Statewide Comprehensive Outdoor Recreation Plan* (SCORP). The ILC also serves as the review panel to satisfy the National Park Service requirements under the Open Project Selection System. DCS coordinates the interagency review of all applications and submits all comments and recommendations to the Secretary of Environmental Affairs for final funding decisions.

In reviewing applications and developing their recommendations to the Director of Conservation Services, the ILC considers:

1. Demographics

Four categories are evaluated by DCS to calculate a community's demographic score. Communities with higher Population Density, lower Equalized Valuation Per Capita, lower Median Income, and lower Percentage of Households Below Poverty Level receive higher demographic scores. (Scores are calculated by DCS; therefore, there is no need to submit any statistics or narrative on your community's behalf.)

2. Community Profile Score

Environmental Justice Community – calculated by EOEa's EJ Director.

Commonwealth Capital Score – EOEa encourages land use decisions that protect environmental quality and preserve natural resources. Unplanned growth not only threatens the environment, it also can adversely affect the timely provision of needed infrastructure, and has a tremendous fiscal impact on communities. This impact, in turn, puts future economic opportunities at risk. The Office for Commonwealth Development has developed sustainable development criteria and will evaluate and score each applicant community. Please submit a Commonwealth Capital Application for your community, available online at <http://www.mass.gov/ocd/comcap.html>, to obtain your score.

3. Project Quality

- Water Resources: frontage on water resources, recreational utility, and protection of drinking water supplies;
- Green Infrastructure: size of the acquisition and its proximity to other protected open space;
- Multiple Uses: purpose for acquisition, in addition to passive public recreation;
- Biodiversity and Resource Protection: subject property contains resources identified by *Massachusetts Outdoors 2000!*, the Statewide Comprehensive Outdoor Recreation Plan, the Natural Heritage and Endangered Species program, Massachusetts Historical Commission, or Areas of Critical Environmental Concern. Applicants must include written comments from any of the following state agencies: the Massachusetts Natural Heritage Program Office, or the Massachusetts Historical Commission, or ACEC program as appropriate.
- Consistency with *Massachusetts Outdoors 2000!*: Points awarded based "Inferred Need for New Recreational Areas" under Chapter 5: The Regional Perspective.

4. Partnerships

EOEA, like any other open space protection agency or organization, must have other financial partners. Projects that involve financial contribution from more than one municipality, or from a nonprofit organization will be given higher consideration. Projects that obtain technical assistance from other organizations will also benefit in the rating system.

5. The applicant's past performance on DCS funded projects.

Timely, comprehensive and diligent project management is critical to the success of a community's current and future applications. Applicants who have successfully completed prior projects, and who have no outstanding conservation or parkland conversion issues will be considered favorably.

SELECTION NOTE: Preservation of Agricultural Land

Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. State Grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for reimbursement under a state grant. Project which would convert any prime agricultural lands should consult with the Department Agricultural Resources at (617) 626-1700 prior to submitting an application.

RATING SYSTEM for Conservation Acquisition Projects

CATEGORY	SUB-CATEGORY	Description	Partial Points	Max	
DEMOGRAPHICS	Population Density	Figures obtained from MISER and put into rank order by DCS	1 through 4	5	
	Median Income	Figures obtained from MISER and put into rank order by DCS	1 through 4	5	
	Percentage of Households below Poverty Level	Figures obtained from MISER and put into rank order by DCS	1 through 4	5	
COMMUNITY PROFILE SCORE	Environmental Justice Community	Calculated by EOE's Environmental Justice Director	1 through 4	5	
	Sustainable Development Criteria - Commonwealth Capital Score	Criteria developed by Office for Commonwealth Development and required for all "Commonwealth Capital" grant programs. Open Space and Recreation Plan, Housing Compliance, and Local Funding Initiatives among other criteria are considered (see http://www.mass.gov/ocd/comcap.html for details).	1 through 29	30	
PROJECT QUALITY	Water Resources	Frontage on ocean, or estuarine habitat.	15	15	
		Lake, pond, major river, water supply (surface or ground) i.e. Zone II or reservoir, regionally important wetlands (DEM 1978), cold water fishery stream	10		
		Secondary river or stream with recreation potential, frontage on small streams, small wetlands	5		
	Green Infrastructure	250+ acres of upland forest, wetland or water resources that create a hub or corridor of permanently protected land; expansion of existing hub or corridor (including those protected by APR or CR)	15	15	
		Acquisitions of between 100 - 249 acres that 1.) link to other Article 97 lands or 2.) are within a Critical Ecosystem (MNHESP)	10 points		
		Acquisitions of less than 100 acres that 1.) link to other Article 97 lands or 2.) are within a Critical Ecosystem (MNHESP)	5 points		
	Multiple Uses	Water Supply Protection	Wildlife Habitat	4+ uses 5 pts	5
		Agricultural Use	Forest Management	3 uses - 4 pts	
		Passive Recreation	Environmental Education	2 uses - 2 pts	
		Historic or Archeological Interpretation		1 use - 0 pts	
	Biodiversity and Resource Protection	Project contains resources identified by the: * Statewide Land Conservation Plan * MA Natural Heritage and Endangered Species Program * Massachusetts Historical Commission * Areas of Critical Environmental Concern Program * Five-Year Watershed Action Plans (http://www.mass.gov/envir/water/publications.htm)		5	5
		Project abuts identified resource area, or is likely to contain resources identified by the: * Statewide Land Conservation Plan * MA Natural Heritage and Endangered Species Program * Massachusetts Historical Commission * Areas of Critical Environmental Concern Program * Five-Year Watershed Action Plans http://www.mass.gov/envir/water/publications.htm		3	
		Consistency with <i>Massachusetts Outdoors 2000!</i>	Points awarded based "Inferred Need for New Recreational Areas" under Chapter 5: The Regional Perspective. http://www.mass.gov/envir/dcs/global/publications.htm .		1-6
PARTNERSHIPS	Cooperative Effort between Municipality and one or more Partner(s)	Other Sources of Funding from another Municipality or Nonprofit Organization	4	4	
		*Management Plan: Technical Assistance and Signature on plan	2		
TOTAL				100	



LAND & WATER CONSERVATION FUND PROGRAM OVERVIEW

The Land and Water Conservation Fund Act was authorized in 1965 (P.L. 88-578, 16 U.S.C. 4601-4-4601-11) and extended in 1987 through FY 2015 (P.L. 100-203). The original intent was to appropriate no less than 60 percent of the entire LWCF account for the stateside program, which is funded by offshore oil leases on federal land. But this balance has never been attained and, over the years, the Federal side of the program has eclipsed the stateside. For local communities trying to provide quality recreational areas close to home, the LWCF stateside program is a key tool. Demand for support of worthwhile, eligible projects in Massachusetts and across the country has far exceeded available funds. In Massachusetts, as in many states with overcrowded urban areas, the LWCF stateside program offers a crucial way to reclaim a small portion of the limited open space that remains, and to renovate recreational facilities that are seriously overused.

Funds can be used by the state (Departments of Recreation and Conservation and Fish and Game), as well as cities and towns to acquire and/or develop conservation and recreation land. Massachusetts has received \$94.2 million during since 1965. Land acquired or developed with these funds become protected under Article 97 and federal regulations – and cannot be converted from intended use without permission from the National Park Service and EOEa. A converted site must be replaced with land of equal value not already in recreational use, and of equal utility to the converted site. Conversion proposals must also be approved by the National Park Service, through EOEa, and land of equal value and utility substituted. Strict appraisal requirements apply using the Uniform Appraisal Standards for Federal Land Acquisitions.

By state requirement, a Massachusetts community must prepare a local open space and recreation plan that is updated every five years in order to be eligible for LWCF grants. The LWCF program itself requires states to prepare Statewide Comprehensive Outdoor Recreation Plans and update them every five years in order to receive funds from the Federal government. These requirements help ensure well-thought out uses of land, and prioritization of projects.

The stateside program has been used successfully to aid in acquisition of conservation projects such as hunting and fishing sites, heritage corridors, greenways and riverways as well as funding the development of outdoor recreation facilities. The LWCF program makes an important contribution to the protection of wildlife habitat, water quality, farmlands, and archaeological sites as well as providing a quality outdoor recreation experience.

Past projects funded through the stateside program in Massachusetts include Boston Common and Franklin Park in Boston, state Heritage Parks in Holyoke, Lynn, Lowell and New Bedford, areas in the Blackstone River Valley National Heritage Corridor, and the historic Paine Estate in Wayland.

The impact of these protected conservation and recreation areas can be evaluated in human as well as environmental terms. LWCF projects play an important role in improving the quality of life in many communities by providing access to sites that are close to home and can be enjoyed regardless of mental or physical disability. Inner city residents acknowledge that park and recreation areas offer a positive alternative to crime and gang violence. They also help people to learn to appreciate the value of protecting natural resources, since positive results can be seen in one's own neighborhood.

The LWCF program was purposefully designed to ensure that the local project sponsor (a municipality or state agency) makes a clear commitment to the project. The program only pays up to 50 percent of the total project cost, and many projects have required the local sponsor and neighboring private interests to invest much more than 50 percent. For example, it was estimated that the Lechmere Canal project in Cambridge leveraged ten private dollars for every single public dollar spent. Furthermore, maintenance costs are solely the responsibility of the local sponsors, and future grants are withheld if grantees cannot demonstrate an ability to care for the federally assisted sites they already have.

This is a cost-effective partnership program that is making a big difference with very limited funds. While the grant source is federal, the program is largely administered on the state level resulting in a more timely and efficient delivery system. DCS has long advocated that the LWCF program is flexible enough to cover many of the initiatives that have been popular such as protecting greenways, riverways and priority watershed lands and redeveloping brownfields. It is much more efficient to use an existing program with some modifications than it is to reinvent entirely new programs.